No. 85-880

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

DIRECTORY SERVICE COMPANY OF COLORADO, INC., and FRANCES A. ANDERSON,

Petitioners,

v.

ROCKFORD MAP PUBLISHERS, INC.,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITIONERS' REPLY BRIEF

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In its responsive brief, RMP emphasizes the "skill" it allegedly exercised in transforming the public domain legal descriptions of land ownership data into plat maps. However,

this transformation may only be accurately effected in one way. More precisely, the ownership data dictates what the pictorial depiction must be. The laws of copyright do not protect such expressions, i.e., expressions which result solely from functional considerations.

Copyright protection for compilations extends only to the selection, coordination and arrangement of materials and does not include the use of "skill" in the sense that RMP employs the term here. Such "skill", in fact, is merely another way of expressing "sweat of the brow". Other circuits recognize this limitation on compilation copyrights. The Seventh Circuit and RMP do not.

By focusing on its pictorial portrayal of the plots of land, RMP now, for the first time, attempts to characterize this case as a map case. Before the District Court, RMP insisted this was not a map case because it could not meet the copyright standard of originality for maps, at least with respect to the information DSC had allegedly copied.[1] The District Court accurately agreed that, "The case in fact centers on the question of the copyright of a compilation of landowner information shown of [sic] the face of the RMP maps" (A-13).

With respect to such landowner information, it is uncontroverted that DSC's agent spent 75 hours compiling the data and *then* verifying its accuracy against RMP's maps. RMP's agent spent only 14 hours in verifying the same data. One of its employees estimated he could have done the work from scratch in 40 to 45 hours (A-2). DSC plainly did not obtain a commercial advantage by shortcut. It properly used RMP's

[1] In any event, DSC did not copy RMP's pictorial representations of the land ownership data, as is clearly shown by the exhibits affixed as pages A-8 and A-9 of the Appendix to the Petition. DSC used simple grid forms for its base maps.

work for verification purposes. RMP and the Seventh Circuit disapprove of DSC's method of verification. The fact remains, however, that the use was for verification purposes in a manner which was fair and wholly proper under the law of copyright.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that three copies of the foregoing PETITIONERS' REPLY BRIEF were served on respondent's attorneys by first-class mail, postage prepaid, addressed to:

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on this 16th day of December, 1985.